

AMENDED IN SENATE JULY 1, 2003  
AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1169**

**Introduced by Assembly Member Bermudez**

February 21, 2003

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An act to amend Section 366.1 of the Public Utilities Code, relating to electric power.

LEGISLATIVE COUNSEL'S DIGEST

AB 1169, as amended, Bermudez. Aggregation: Magnolia Power Project.

Under existing law, a city with rights and obligations to the Magnolia Power Project, as defined, may serve as a community aggregator on behalf of all retail end-use customers within its jurisdiction, if the project has been constructed and is otherwise capable of beginning deliveries of electricity to the existing project participants, *as defined*.

This bill would make changes to reflect that the project is being constructed, ~~and would define the term “retail end-use customers within its jurisdiction” to include any electric service account of any local public agency that has its principal place of business either within, or immediately contiguous to, the existing project participant’s jurisdiction.~~ *The bill would modify the definition of the term “existing project participant” to mean the Magnolia Power Project B participant, as defined in lease revenue bonds issued for the project. The bill would specifically authorize an existing project participant to serve*

*as a community aggregator on behalf of all electric service accounts of the ABC Unified School District.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 366.1 of the Public Utilities Code is  
2 amended to read:

3 366.1. (a) As used in this section, the following terms have  
4 the following meanings:

5 (1) “Department” means the Department of Water Resources  
6 with respect to its power program described in Chapter 2  
7 (commencing with Section 80100) of Division 27 of the Water  
8 Code.

9 (2) “Existing project participant” means ~~a city with rights and~~  
10 ~~obligations to the Magnolia Power Project under the Magnolia~~  
11 ~~Power Project Planning Agreement, dated May 1, 2001. the~~  
12 ~~Magnolia Power Project B participant, as defined in the Magnolia~~  
13 ~~Power Project B lease revenue bonds, issued on March 15, 2003.~~

14 (3) “Magnolia Power Project” means a natural gas-fired  
15 electric generating facility being constructed at an existing site in  
16 Burbank and for which an application for certification has been  
17 approved by the State Energy Resources Conservation and  
18 Development Commission and for which a certificate to construct  
19 and operate has been granted.

20 (b) Notwithstanding Section 80110 of the Water Code or any  
21 commission decision ordering the suspension of direct access, *if*  
22 *the Magnolia Power Project has been constructed and is otherwise*  
23 *capable of beginning deliveries of electricity to the existing project*  
24 *participants*, an existing project participant may serve as a  
25 community aggregator on behalf of all retail end-use customers  
26 within its jurisdiction, *including all electric service accounts of*  
27 *the ABC Unified School District. For the purpose of this*  
28 ~~subdivision, the term “retail end-use customers within its~~  
29 ~~jurisdiction” includes any electric service account of any local~~  
30 ~~public agency that has its principal place of business either within,~~  
31 ~~or immediately contiguous to, the existing project participant’s~~  
32 ~~jurisdiction. Nothing in this section may be construed to restrict~~  
33 *the existing project participant to reliance solely on output from*

1 *the Magnolia Power Project in its right to serve all retail end-use*  
2 *customers within its jurisdiction.*

3 (c) Subdivision (b) may not become operative until both of the  
4 following occur:

5 (1) The commission implements a cost-recovery mechanism,  
6 consistent with subdivision (d), that is applicable to customers that  
7 elected to purchase electricity from an alternate provider between  
8 February 1, 2001, and January 1, 2003.

9 (2) The commission submits a report certifying its satisfaction  
10 of paragraph (1) to the Senate Energy, Utilities and  
11 Communications Committee, or its successor, and the Assembly  
12 Committee on Utilities and Commerce, or its successor.

13 (d) (1) It is the intent of the Legislature that each retail end-use  
14 customer that has purchased power from an electrical corporation  
15 on or after February 1, 2001, should bear a fair share of the  
16 department's power purchase costs, as well as power purchase  
17 contract obligations incurred as of January 1, 2003, that are  
18 recoverable from electrical corporation customers in  
19 commission-approved rates. It is the further intent of the  
20 Legislature to prevent any shifting of recoverable costs between  
21 customers.

22 (2) The Legislature finds and declares that this subdivision is  
23 consistent with the requirements of Section 360.5 and Division 27  
24 (commencing with Section 80000) of the Water Code, and is  
25 therefore declaratory of existing law.

26 (e) A retail end-use customer purchasing power from a  
27 community aggregator pursuant to subdivision (b) shall reimburse  
28 the department for all of the following:

29 (1) A charge equivalent to the charge that would otherwise be  
30 imposed on the customer by the commission to recover bond  
31 related costs pursuant to an agreement between the commission  
32 and the department pursuant to Section 80110 of the Water Code.  
33 That charge shall be payable until all obligations of the department  
34 pursuant to Division 27 (commencing with Section 80000) of the  
35 Water Code are fully paid or otherwise discharged.

36 (2) The costs of the department, equal to the share of the  
37 department's estimated net unavoidable power purchase contract  
38 costs attributable to the customer, as determined by the  
39 commission, for the period commencing with the customer's  
40 purchases of electricity from a community aggregator, through the

1 expiration of all then existing power purchase contracts entered  
2 into by the department.

3 (f) A retail end-use customer purchasing power from a  
4 community aggregator pursuant to subdivision (b) shall reimburse  
5 the electrical corporation that previously served the customer for  
6 all of the following:

7 (1) The electrical corporation's unrecovered past  
8 undercollections, including all financing costs attributable to that  
9 customer, that the commission lawfully determines may be  
10 recovered in rates.

11 (2) The costs of the electrical corporation recoverable in  
12 commission-approved rates, equal to the share of the electrical  
13 corporation's estimated net unavoidable power purchase contract  
14 costs attributable to the customer, as determined by the  
15 commission, for the period commencing with the customer's  
16 purchases of electricity from the community aggregator, through  
17 the expiration of all then existing power purchase contracts entered  
18 into by the electrical corporation.

19 (g) (1) A charge or cost imposed pursuant to subdivision (e),  
20 and all revenues received to pay the charge or cost, shall be the  
21 property of the department. A charge or cost imposed pursuant to  
22 subdivision (f), and all revenues received to pay the charge or cost,  
23 shall be the property of the particular electrical corporation. The  
24 commission shall establish mechanisms, including agreements  
25 with, or orders with respect to, electrical corporations necessary to  
26 ensure that the revenues received to pay a charge or cost payable  
27 pursuant to this section are promptly remitted to the party entitled  
28 to those revenues.

29 (2) A charge or cost imposed pursuant to this section shall be  
30 nonbypassable.

